



PETITION FOR RULEMAKING

CRM Oversight and Disciplinary Regulations



Background

- Rancho Guejito
 - *22,500-acre working ranch in northern San Diego County*
 - *Substantial agricultural and ranching operations*



Background – CRM Dispute

- April 2012: Superior Court issues Three Year Workplace Violence Restraining Order against CRM
- March 2013: Court of Appeal upholds Three Year Workplace Violence Restraining Order against CRM
- October 2013: Rancho Guejito files disciplinary complaint with Board of Forestry.
- December 2013: CRM files lawsuit in federal court against Rancho Guejito.
- June 2014: Board rejects Rancho Guejito's complaint in 2 paragraph form letter.
- August 2014: Board rejects Rancho Guejito's attempts to appeal or obtain reconsideration.
- March 2015: CRM dismisses his federal court lawsuit against Rancho Guejito; no relief granted.
- Aug. 2014 – May 2016: Rancho Guejito v. Board superior court lawsuit.

Background

- July, Sept. 2016: Range Management Advisory Committee meetings
- Nov./Dec. 2016: Annual Call for Regulatory Review comments
- Jan., March 2017: PFEC meetings
- Various – CRM Panel meetings (until no longer public)

Background – CRM Dispute

■ Superior Court, 2012

– CRM

- “engaged in unlawful violence,”
- “made a credible threat of violence,” and
- “demonstrated a history of alarming conduct, including the making of threats, gaining access to gaining access to Rancho Guejito’s property by deception, attempting to force his way into Rancho Guejito’s offices, disregarding directives to have no contact with Rancho Guejito personnel, changing e-mail addresses to avoid Rancho Guejito’s electronic blocking of unwanted e-mails, and confrontations with Rancho Guejito’s security officers.”
- “The Court is satisfied that on each occasion, [the CRM] was needlessly aggressive and confrontational.”
- **Three-Year Workplace Violence Restraining Order Issued**

(Petition, Attachment 1.)

Background – CRM Dispute

■ Court of Appeal, 2013

- “[The CRM] made actual threats, including telling employees that it would be better ‘to have [him] as a friend than an enemy,’ and made an implied threat when he said that management had enough problems ‘without pissing [him] off.’ These statements, particularly when combined with [his] repeated contacting of employees and his penchant for appearing on the Rancho Guejito property or just outside of its boundaries despite knowing that he was not welcome, are sufficient to constitute a credible threat of violence.”
- **Three-Year Workplace Violence Restraining Order Upheld**

(Petition, Attachment 2.)

Background – Problems with CRM disciplinary process

- No witnesses contacted or interviewed as part of investigation
- Known and potentially unknown ex parte communications; no consideration of bias
- All discussions behind closed doors
- No meaningful explanation for decision
- No process to appeal or to get additional information
- No reasonable standards for decision/ arbitrary standards used

could have handled this business better. - reflects on
badly on CalPac

Concerns over specific actions - but don't provide a
letter because we can't keep it confidential

* Notes from April 16, 2014 CRM Panel meeting

Background – Lack of Oversight of CRM Specialty

- Current requirement for annual reporting and oversight is not enforced and is not enforceable

Annual Report	Dated/ Submitted	Due March 1
1996	March 1, 1997	On time
1997	March 1, 1998	On time
1998	March 1, 1999	On time
1999	February 25, 2000	On time
2000	March 21, 2001	Late
2001	March 22, 2002	Late
2002	March 31, 2003	Late
2003	March 31, 2004	Late
2004	March 31, 2005	Late
2005	November 15, 2006	Late
2006	?	Missing

Annual Report	Dated/ Submitted	Due March 1
2007	?	Missing
2008	April 16, 2009	Late
2009	August 10, 2010	Late
2010	“Fall 2010”	Late
2011	April 21, 2015	Late
2012	April 21, 2015	Late
2013	April 21, 2015	Late
2014	April 10, 2015	Late
2015	April 15, 2016	Late
2016	March 10, 2017	Late
2017	?	Pending

Proposed solutions

- Rescind rulemaking authorization for amendments to 14 CCR section 1651 (on “hold” since August 2013) – Out of date and do not account for problems identified in the process
- Amend 14 CCR section 1650 to incorporate reasonable process for discipline
- Amend 14 CCR section 1650 to provide for enforceable and meaningful oversight of the CRM specialty program
- New Section 1650.1 to address:
 - Bias and ex parte communications
 - Conduct of investigations under Pub. Res. Code section 772
 - Incorporation of defined standards as set forth by statute and regulation and the professional society
 - Requirement for written findings, available to complainant

(Petition, Attachment 3.)

Other issues

■ Public Records Act

- *City of San Jose* case
- Key takeaway: Records regarding public business constitute public records regardless of location (includes private or non-agency email accounts)

■ PFEC Policy No. 8 and Underground Regulations

- Issue not resolved in lawsuit
- Policy No. 8 provides for an investigation only when the issues are not “well-documented.” This is contrary to Section 772 of the Public Resources Code (and inconsistent with the proposed Section 1650.1).
- Should be repealed or revised.

Questions/ Discussion

- See Handout